THE RECORD
OF THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK

EDITORIAL BOARD

HARRISON TWEED, *President* — PAUL B. DE WITT, *Executive Secretary* — WHITMAN KNAPP, *Secretary*

THE RECORD is published at the House of the Association, 42 West 44th Street, New York, 18.

Volume 2 — NOVEMBER, 1947 — Number 8

Association Activities

NEARLY FOUR HUNDRED members attended the buffet supper preceding the special meeting on October 1 held in honor of The Right Honorable The Viscount Jowitt, Lord Chancellor of Great Britain. Following the supper the Meeting Hall was filled to capacity to hear the Lord Chancellor's address and to witness the presentation to the Lord Chancellor of an honorary membership in the Association. In making the presentation the President read the following citation:

> "We elect you an honorary member of this Association because at the Bar you have been skilful, forceful, and tireless; on the Bench courteous, learned, and able; in politics eloquent, informed, and courageous; in all these departments, judicial, legislative, and executive, uninfluenced by self-interest or political advantage, prejudiced neither to right nor to left, influenced by the law of justice for all men, desiring above all things peace, but willing to fight against aggression."

AT THE STATED Meeting on October 21 the Committee on the Judiciary and the Committee on the Municipal Court both reported on their recommendations as to candidates in the election

to be held on November 4. The report of the Committee on the Municipal Court, which will be found at page 330 in this number of THE RECORD, contains the names of the candidates for the fifteen vacancies which will be filled this year. The Committee has indicated its opinion of these candidates and the Committee's report has been ratified by the Association.

The report of the Committee on the Judiciary has been mailed to the membership. That report was approved by the Association at its meeting, but a significant amendment was added to the resolution which was printed on page 14 of that report. The resolution as submitted by the Judiciary Committee read as follows:

> "RESOLVED that J. Edward Lumbard, Jr., and Benjamin J. Rabin are both highly qualified to hold the office of Justice of the Supreme Court of the State of New York."

The amendment to that resolution which the Stated Meeting of the Association adopted is as follows:

> "FURTHER RESOLVED that, in view of Judge Lumbard's exceptional interest in, aptitude for and service in the field of legal administration and reform, the voters be urged to vote for Judge Lumbard."

CORRECTION. Through an editorial, not a presidential, error, the President's Report published in the October issue of THE RECORD gave the number of *Active* Members as 4,512. Of course 4,512 is the total membership of the Association as of August 1. The breakdown of this figure is as follows: Active 2,900; Sustaining 718; Auxiliary 47; Associate 637; Honorary 9; Judicial 109; Exempt 92.

THE COMMITTEE on Junior Bar Activities, Henry Harfield, chairman, has arranged to hold the first of the Moot Court competitions between law schools on November 26 at the House of the

Association. The first competition will be between teams selected from the law schools at Yale and Columbia. The Junior Bar Committee has prepared briefs and the contestants are already at work preparing their arguments. Arguments will be submitted to a court consisting of Judge Bernard L. Shientag, Judge Edward A. Conger, and Judge James B. M. McNally. Details of the competition will be announced in a notice to be mailed to the membership.

THE NEW CHAIRMAN of the Entertainment Committee, Judge James G. Wallace, held the first meeting of his Committee on October 8. A general discussion of plans for the coming year was held and particular attention was directed to the possibility of organizing an orchestra of Association members. Further exploration of this subject will be made by a subcommittee, of which the chairman is Boris Kostelanetz.

Among other plans which the Committee has in mind is the possibility of some sort of informal entertainment following the close of the Stated Meetings.

THE RESPONSE of members to the request for information to bring up to date the Association's membership record files has been very gratifying. The cards have been prepared neatly in most cases and the information furnished has been complete. It will be of particular help if those few members who have not returned their cards will do so promptly.

THE COMMITTEE ON AERONAUTICS, Hamilton O. Hale, Chairman, has plans for a forum or institute dealing with recent developments in the law of aeronautics. Collaborating with the Committee is Charles S. Rhyne, chairman of the American Bar Association's Standing Committee on Aeronautical Law. In connection with this work the staff of the Library of the Association is

publishing in this number of THE RECORD a bibliography of recent works in the field of aeronautics.

AT ITS FIRST MEETING the Committee on the City Court, Lester Kissel, Chairman, established three subcommittees to carry out the Committee's program for the coming year. Lester E. Denonn will head a committee to investigate the possibility of using pretrial in the City Court. Henry G. Walter, Jr., is chairman of the subcommittee on the proposed new court house, and Stephen P. Duggan, Jr., will have charge of the Committee's activities in behalf of legislation requiring secretaries to judges of the court to be lawyers.

THE MUNICIPAL COURT COMMITTEE, Edgar M. Souza, Chairman, has had a series of meetings during the past month to interview candidates for judge in the Municipal Court. The results of these interviews were reported on by the chairman at the Stated Meeting held on October 21.

THE COMMITTEE on Post-Admission Legal Education, of which Cloyd Laporte is the chairman, has had to delay mailing the announcement of its schedule of lectures and sections because of difficulties in arranging for some of the lectures on its program. It is hoped that the schedule will be distributed within the next ten days.

IN THE COMMITTEE reports section of this number of THE RECORD will be found the report of the Committee on Law Reform dealing with an amendment to the Workmen's Compensation Law, which would provide that a co-employee or an employer may be held liable for wilful assault in a common law action notwithstanding the provisions of the Workmen's Compensation Law. The report was submitted to the Stated Meeting of the Associa-

tion on October 21 and approved by that meeting. The Committee will now seek to have the legislation enacted at the next session of the General Assembly.

JOHN T. McGOVERN, the chairman of the Committee on Arbitration, has succeeded in encouraging an extension of the field of commercial arbitration.

The National Collegiate Athletic Association, which has a membership of more than two hundred American colleges and universities, recently entered into a long-term contract with an advertising agency appointing the agency its exclusive advertising agent to handle publicity for athletic programs. Mr. McGovern acted as consulting counsel to aid in the preparation of provisions providing for the settlement of all disputes arising under the contract. An agreement was entered into on an arbitration clause which was made part of the contract. The clause was as follows:

> "Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration, in accordance with the standard rules, then obtaining, of the American Arbitration Association, and judgment upon the award rendered may be entered in any Court having jurisdiction thereof, the place of the arbitration hearing to be in the City of New York, and the procedure to be in accordance with the law of the State of New York."

It was also agreed that the arbitration procedure to be used would be that set forth in the brochure "Outline of Arbitration Procedure," recently brought up to date by the Association's Committee on Arbitration and copies of which were distributed to the membership.

The Calendar of the Association for November

(As of October 23, 1947)

November 5	Dinner Meeting of Executive Committee Meeting of Section on Wills, Trusts and Estates
November 12	Dinner Meeting of Committee on Professional Ethics Meeting of Section on Taxation Dinner Meeting of Committee on Real Property Law
November 13	Meeting of Section on Trials and Appeals Dinner Meeting of Committee on Law Reform
November 14	Meeting of Section on Corporations
November 17	Dinner Meeting of Committee on International Law Dinner Meeting of Committee on Domestic Relations Court
November 18	"Cross-Examination—a Judge's Viewpoint." Address by Hon. Bernard L. Shientag, Justice of the Appellate Division, First Department. Buffet Supper, 6:15 P.M.
November 19	Meeting of Section on Labor Law Meeting of Committee on Admissions Meeting of Committee on Public and Bar Relations
November 20	Meeting of Committee on Entertainment
November 24	Round-Table Conference preceded by buffet supper for members of the Association at 6:15 P.M. Meeting of Library Committee
November 25	Meeting of Section on Legal Draftsmanship
November 26	Moot Court Competition between Yale and Columbia

The Treasurer's Letter

To the Members of the Association:

At a recent meeting of the Executive Committee, those present expressed the opinion that some further recognition should be given by the Association to the generosity of deceased members who have made bequests to the Association in their wills. It has been customary to report such bequests in the Year Book, but owing to the quantity of other material in that publication it was felt that very few members of the Association ever become informed of such bequests. Accordingly, I take pleasure in reporting at this time the following bequests which have been received by the Association since January 1, 1947, under the wills of deceased members:

Howard S. Gans	Unrestricted legacy	$4,991.48
William Williams	Unrestricted legacy	2,500.00
		$7,491.48

I wish to express my gratitude and appreciation for the thoughtfulness and loyalty of those members for having named the Association as a beneficiary under their wills. Bequests to the Association are added to endowment and, in the past, have been of great help in building it up to sizable proportions.

Unfortunately, in recent years, the amount received by the Association in the form of bequests has been much less than in former years because of the ruling that such bequests are not deductible in connection with estate taxes. This was alluded to in the Treasurer's letter which appeared in the March, 1947 issue of THE RECORD, when it was there pointed out that gifts and bequests may now be made to The Association of the Bar of the City of New York Fund, Inc., which will be deductible for tax purposes and which will benefit the Association to the same extent as gifts and bequests made directly to it.

Since last January, when the Fund received a favorable tax ruling from the Treasury Department, the following contributions to it have been gratefully received:

Cash $3,600.00
(of which the use of $2,000 was restricted to the publication of Cardozo Lectures)

3% Notes of the Association
Principal amount . . . $3,600.00

October 14, 1947 CHAUNCEY B. GARVER

Impact of the Occupation on German Law

BY PAUL L. WEIDEN

> "The unconditional surrender of Germany has thereby been effected, and Germany has become subject to such requirements as the victorious powers may or hereafter will impose upon her; they . . . hereby assume supreme authority with respect to Germany . . . This does not effect the annexation of Germany." (Official Publications of the Control Counsel Volume 1, Page 14.)

This is not the first time that foreign laws have greatly influenced German legal development. It is not even the first time that a military occupant has imposed law. Napoleon rationalized the German constitutional system by abolishing many hundreds of German principalities and by reorganizing the German Laender, with permanent and beneficial effect. At the same time the French civil and procedural codes were introduced in many parts of Germany where they stayed for good, exerting a very notable influence upon the German Codification of 1900.

Earlier around 1500 Germany accepted the bulk of Roman law as the law of the land. The German "reception" of Roman law was far more complete than in any other non-Italian country partly because it served the interest of the lords of the German principalities; and partly because of the attitude of the German lawyers in recognizing the superiority of Roman law.

The ready acceptance of foreign legal ideas may be contrasted with Germany's willingness to overrate her own traditional characteristics. Both may have been caused, however, by the lack of a democratic tradition in which broad segments of the people have shared.

Editor's Note: Mr. Weiden, a member of the Association's Committee on Foreign Law, is a Master of Laws of the University of London, a Doctor of Laws of the University of Frankfurt, and a member of the English Bar and the Bar of New York and of the District of Columbia. He has served as Chief of the Legal Section, Liberated Areas Branch of the Foreign Economic Administration, and also as Senior Attorney in the Opinion Writing Office of the Securities and Exchange Commission. He is the author of articles and notes in numerous legal publications.

There is, therefore, some opportunity for the lawyers of the Military Occupation Forces. There is a void in the minds of the German people and its lawyers which may be filled by concepts of a legal system that has proved its physical force and resilience.

LEGISLATION BY THE OCCUPANT

Legislation is effected by the Control Council in Berlin, comprising the Four Powers. Unanimity has been obtained on some important phases of legislation, such as the abrogation of National Socialist laws, courts, currency, blocking and control of assets. The Zonal Commanders have authority to legislate on all subject matters not dealt with by the Control Council, for instance, Denazification. It is also within their discretion to permit German self-government and German legislation.

The occupant's powers are restricted by the Hague Conventions. Apparently, however, the occupants feel that the complete breakdown of the National-Socialist regime in Germany has created a situation which was not regulated by the Conventions so that they do not fully apply.

Also, it is frequently, though not officially, argued that parts at least of the Conventional laws are obsolete as they were created at a time in which wars were "temperate and indecisive contests" the outcome of which did not affect "the prosperity of the Kingdoms" and could not "essentially injure the general state of happiness."*

It is also argued that not only events, but, possibly in consequence of the march of events, ideologies also have vitally changed in the last 40 years. We are going back to the original Christian conception of international law which distinguishes between the "just" and "unjust" war (or to use the modern expression: aggressor and victim of aggression), and are discarding the Jeffersonian concept of an absolute and morally justified

* Gibbon, E.: The History of the Decline and Fall of the Roman Empire, ch. XXXVIII ad finem.

neutrality. New fundamentals of international law are being created of which the Nuremberg judgments are but one example.

However justified such arguments may be in principle, the law of the Hague Convention must still govern the occupant's powers. This is true if only for one reason: it is now being applied to revise measures taken by the German occupant when Germany was in control of most of the countries which have since been liberated. Furthermore, the Hague Conventions are elastic and practicable. Without artificiality or hypocrisy it can be stated that the Conventions grant a larger power to the occupant of a totalitarian state than to the occupant of a democracy, not because of a double standard but simply because the local law grants the men at the top a far greater power in a totalitarian regime. The occupant, as successor to the Chief Executive, has an entirely different position in a totalitarian State from the position he would have in a democratic state. This does not mean that the totalitarian constitution is approved. It means simply that an occupant in Germany may abide by the constitutional life and can change it gradually while acting in accordance with a status which is already understood.

LEGISLATION BY GERMAN AUTHORITIES

The American Zone has led in the reorganization of democratic self-government. The governments of the Laender, which at first were little else than appointees of the Military Government, were permitted to organize elections first on the municipal and later on the county and higher levels. The provisional governments of the Laender are represented in the "Laenderrat."

As self-government progresses, the American commander exercises his rulemaking powers probably even to a smaller degree than is permitted under the most restrictive view of the Hague Convention. This supports the view that the actual exercise of his rulemaking power must depend largely on the existence of *de facto* governmental authorities in the occupied territory.

The British follow in general the American lead, although they do not place the same confidence as the Americans in German self-government. The French are even more hesitant. In the Russian Zone legislative activities on various levels are encouraged, naturally under the Russian concept of self-government.

THE LAENDER

Long lasting changes in the boundaries and respective influence of the Laender have frequently been brought about by non-German powers. Having been established, they have sometimes outlived the reasons for their creation.

Prussia is now destroyed as an administrative entity. Other smaller states have been merged with neighbors. The Laender in the American and British zone will be the nucleus of about 12 or 14 new German states of approximately equal importance. Berlin is presently under four power command.

The important relation of Federal and State power was practically settled when the Russians insisted at Yalta that the British Zone of Occupation should not border the inter-zonal district of Berlin. The absence of as much as a corridor made it desirable for the United States and for Great Britain to encourage a Federal system of government quite apart from other factors that speak in its favor. If during occupation, the banking and trading systems of the nation should become decentralized, and particularly Hamburg, Cologne, Frankfurt and Bremen again obtain the relative commercial importance they had from the fifteenth to the beginning of the twentieth century, it is most doubtful whether the Germans would desire to change a status thus established.

ABROGATION OF NATIONAL-SOCIALIST LAWS

Law No. 1 of the Allied Control Council gives a catalogue of Repealed Nazi legislation, mostly of a constitutional or dis-

criminatory character. The mass of laws issued from 1933 to 1945 could, however, not be generally repealed. Therefore, the law contains an omnibus clause forbidding the interpretation or application of German law in accordance with National-Socialist principles, quite irrespective of when and how they were established. Thus, much is left to the discretion of the individual judge or administrator. In practice, however, the results prove to be fairly workable.

The great bulk of administrative rules and regulations from income tax to milk supplies govern the every-day life of the average German; changes due to political or ideological influence are infrequent. In the ordinary field of civil and commercial law not too many changes were made by the Nazis, who preferred to leave alone the great body of German laws and to obtain their aims in the fields of commercial and civil law by indirect economic regulations, pressure, duress or other actions illegal even under German law, in addition to specific discriminatory statutes which could be repealed with relative ease.

However, Law No. 1 does not solve the problem of the validity of discriminatory and other objectionable acts and civil judgments of the period from 1933 to 1946.

COURTS

The institution of courts and judges has never been as important in Germany as in the United States or in England. The Civil Service and the career of its members, the hierarchical character of the German State and of the German Reich prior to 1918 and then again from 1918 to 1946, the coolness of the judiciary toward the Republican ideas of the Weimar Reich, have all contributed to the judiciary's somewhat modest rule. Nevertheless the judiciary has managed to survive as an institution and as a group of persons during the Kaiserreich, the Weimar Republic, the Nazi regime and will probably survive the occupation. "Correct," conservative, more anonymous than in Anglo-Ameri-

can law, but fully conscious of its tradition of honesty and stability, if not rank and caste, the judiciary will exert its influence in interpreting and applying the laws of the occupant and of the Laender Parliaments with a high capacity for producing judge-made law "somewhat to the right" of the present Laender Parliaments even in the Western Zone.

Military necessity makes it imperative to refrain from the grant of judicial independence at the very time at which democratic ideals should be introduced into Germany. The necessity of the measure is obvious, nevertheless in this as well as in other instances, it must be observed that Military Government, however necessary and excellent, is a difficult proving ground of democratic ideals.

FUNDAMENTAL PRINCIPLES OF DEMOCRACY AND CRIMINAL LAW

In Proclamation No. 3 of the Control Council the great powers of the West and of the East have been able to agree on some rules at least of "democratic law," an expression actually used in the Proclamation:

1. "All persons are equal before the law. No person whatever his race, nationality or religion shall be deprived of any legal right.
2. "No person shall be deprived of life, liberty or property without due process of law.
3. "Criminal responsibility shall be determined only for crimes provided by law.
4. "In any criminal prosecution the accused shall have the right recognized by democratic law namely the right to a speedy and democratic trial, and to be informed of the nature and cause of the accusation; the right to be confronted with the witnesses against him, and to have process for obtaining the witnesses in his favor, and the right to have the assistance of counsel for his defense. Excessive or inhuman punishment, and punishment not provided by law will not be inflicted.

5. "Sentences on persons convicted under the Hitler Regime on political, racial or religious grounds must be quashed."

While most principles of the proclamation refer to criminal law, it is also expressly stated that "no person shall be deprived of property without due process of the law"—a clause which will surely find the close attention of the German judiciary even within the Russian Zone. A similar clause of the Weimar Constitution prohibiting expropriation without compensation—was interpreted by the German courts in a most extensive manner.

FINANCIAL AND ECONOMIC CONTROLS

While Germany has today all controls the United States knew during wartime and many more, the Division controls are probably of most immediate interest to the practicing lawyer. Law No. 53 of the Control Council invalidates all transactions involving foreign currency or involving any interest a foreign resident may have in Germany or a German resident may have anywhere abroad, unless a special license is obtained. Thus, even a judgment in favor of a non-resident cannot be enforced in Germany without a license.

It can be expected that licenses will soon be given for the repayment of ordinary debt to non-residents but the proceeds can be used in Germany only; investments and re-investments will necessitate renewed licenses. A transfer into foreign countries of any such monies will not ordinarily be licensed for many years to come.

Exports and imports are subject to strict licensing which assure in particular that export deliveries are paid in foreign currency which is duly converted by the German exporter in marks.

Protective temporary controls were imposed by Law No. 52 over the property of Allied nationals and of discriminated persons. The same law provides for the control of the property of Nazi leaders, war criminals and similar classes.

CONTROL OF GERMAN ASSETS IN FOREIGN COUNTRIES

The occupant endeavors to exercise control, and possibly to confiscate German assets in foreign countries. Neutrals, particularly Sweden and Switzerland have contested the extraterritorial effect of these measures, first, because they violate the Hague Conventions, secondly because confiscatory measures of even the lawful sovereign have no effect abroad under ordinary principles of private international law. Treaties with Sweden and Switzerland have effected a compromise solution of some interest to the practicing lawyer inasmuch as they provide for some possibilities of the payments of debts owed by German corporations to American creditors.

RESTITUTION

Economic crimes should not pay, and parties who benefited personally by the exploitation of discriminated classes such as political enemies of the Nazis, or Jews should not be left in the possession of their unjustified gains any longer than absolutely necessary. Furthermore, if a system of Western democracy is to be re-established in Germany those who have suffered under National Socialism and are therefore bound to struggle against its resurgence should be given at least as much economic power as they had before.

It is probably impossible to obtain a timely restitution law for all of Germany. Restitution is basically a capitalist measure. Therefore at least the American zone should issue a restitution law as soon as possible. An official draft is ready and may be promulgated soon. It provides that *bona fide* acquisition of property confiscated by the Nazis is not possible except as to negotiable securities. Confiscation or duress is presumed in all transactions involving members of discriminated classes.

The claimant must return to the purchaser whatever he obtained in connection with the transaction now declared to be

void, in particular the purchase money. However, if it was used for the payment of penalties or discriminatory taxes, the restitutor has a claim only against the Reich.

DENAZIFICATION

The Law for the Liberation of National Socialism and Militarism of March 6, 1946, was published by the Laender within the American Zone. It is an achievement of American Military Government to have created an atmosphere in which such a law could be passed and enforced by German self-governing authorities.

The law itself is rather severe. Everyone in Germany has to fill out a questionnaire, the well-known *Meldebogen*. Denazification tribunals and courts are established to deal individually with each case. The investigated party has all the rights of the accused under democratic principles, in particular he may be represented by counsel. Membership in certain groups of importance under the Nazi regime creates a presumption of guilt which the accused has to overcome.

Measures of punishment are laid down by the legislator in great detail. At least on paper they do not appear to err on the side of leniency, as is so frequently stated in the United States.

The effectiveness of the Law is, of course, largely dependent on the work done by the various Denazification Boards.

FAMILY RELATIONS AND DIVORCE

The Four Powers were able to agree on a divorce law, and deemed the subject matter important enough for early regulation (Law No. 16). Of particular interest is Article 48 providing

> "If husband and wife have not kept a common household for three years, and if owing to a deep-rooted incurable disruption of marital relations a restoration of the common life in the conjugal sense cannot be expected, either spouse may petition for a divorce."

CONCLUSION

A review of the effect of American occupation upon German law permits a special tribute to the American Military Government in Germany. Few of the critics of Military Government fully realize the hazards of Four Power Government, and the obstacles to fair government of a nation whose industries have been blown to rubble, whose cities are shattered, and whose ideologies and faith are rapidly changing.

Committee Reports

COMMITTEE ON LAW REFORM

REPORT ON AN AMENDMENT TO THE WORKMEN'S COMPENSATION LAW*

The Committee's attention was called to the case of *Mittman v. Meyerson,* 19 N. Y. Supp. (2d) 577 (New York City Court), in which it was held that the Workmen's Compensation Law precludes a common law action by an employee against a co-employee for a wilful assault.

This result was based upon a literal reading of Section 29 of the Workmen's Compensation Law, subdivision 6 of which provides:

> "The right to compensation or benefits under this chapter, shall be the exclusive remedy to an employee, or in case of death his dependents, when such employee is injured or killed by the *negligence or wrong* of another in the same employ."

We think it seriously questionable that the higher courts will adopt the literal construction approved in the Mittman case. See *DeCoigne v. Ludlum Steel Co., infra.*

The case of *Abbondondolo v. Mealing,* 249 App. Div. 818 (2d Dept. mem.), cited by the Court in the *Mittman* case, involved negligence and not wilful assault, as did the case of *Behan v. Maleady,* 249 App. Div. 912 (3rd Dept. mem.).

The provisions now contained in subdivision 6 of the Workmen's Compensation Law were added by an amendment in 1934 which was enacted following the decision in *Judson v. Fielding,* 227 App. Div. 430, affirmed 253 N. Y. 596, in which it was held that an employee could sue a co-employee for negligence. See *Caulfield v. Elmhurst Contr. Co.,* 268 App. Div. 661, 665. We believe it unlikely that the Legislature had wilful injuries in mind when it adopted the amendment. The immediate purpose was, no doubt, to absolve co-employees as well as the employer from common law liability for *negligence* where there was workmen's compensation coverage.

In the related situation of a suit by an employee against his employer for wilful wrong, it seems well established that the employer is liable to a common law action. This result is reached notwithstanding Section 11 of the Workmen's Compensation Law which provides that the liability of the employer under the Workmen's Compensation Law "shall be exclusive and in place of any other liability whatsoever," and notwithstanding the fact that the injury might be compensable under the Workmen's Compensation Law.

Thus, in *DeCoigne v. Ludlum Steel Co.,* 251 App. Div. 662, the Court

---

* Approved by the Association, October 21, 1947.

held that the Workmen's Compensation Law was not a bar to an action for a wilful injury inflicted on the employee by the employer. The Court said at pp. 665–666:

> "No case has been called to our attention, nor has our own research disclosed any, where it has been held that one who willfully assaults a workman while in the course of his employment, be he an employee, an employer or a stranger, when sued for the tort can successfully defend on the ground that the plaintiff and his employer are subject to the Workmen's Compensation Law, and that his sole remedy is thereunder.
>
> * * * * *
>
> "The defendant's acts constitute an invasion of plaintiff's rights for which the law gives him an action for damages. The fact that plaintiff may or may not, at his election, seek relief under the compensation law does not, in our opinion, bar his right to maintain an action to recover damages against the wrongdoer."

To the same effect:

LePochat v. Pendleton,
N. Y. Law Journal, 187 Misc. 296.

Mouscaz v. Fahnestock,
N. Y. Law Journal, January 11, 1937, p. 159.

It may be possible to distinguish cases involving a wilful wrong of the employer from those involving a wilful wrong of a co-employee on the technical ground that a wilful injury by the employer does not arise out of or in the course of the employment. See the *DeCoigne* case at p. 665. This is at best a doubtful proposition of law and the result may vary with the facts of each particular case. It should be noted that the Court in the *DeCoigne* case was careful not to tie up the question of compensability under the Workmen's Compensation Law with the question of the common law liability of the employer.

On the whole, we regard the question of whether the co-employee may be held liable for wilful injury in a common law action as still unsettled.

It is our belief that there is no reason why a co-employee or an employer should not be held civilly liable for a wilful assault, whether or not such assault is compensable under the Workmen's Compensation Law. Accordingly, we recommend that the statute be amended so as to provide clearly that a co-employee or employer may be held liable for wilful assault in a

common law action notwithstanding the provisions of the Workmen's Compensation Law. A proposed statute to accomplish this purpose is appended.

Respectfully Submitted,

COMMITTEE ON LAW REFORM

BARENT TEN EYCK, *Chairman*
ELI H. BRONSTEIN
FLORENCE BRUSH
PORTER R. CHANDLER
FREDERIC R. COUDERT, JR.
IRWIN D. DAVIDSON
SIDNEY FRIEDMAN
FREDERICK P. HAAS
ORRIN G. JUDD
MATTHEW M. LEVY
JAMES J. McGOWAN
ARMAND F. MACMANUS
ANDRE MAXIMOV
JEROME MICHAEL
MacNEIL MITCHELL
EMMETT W. POINDEXTER
LOUIS PRASHKER
ROY M. D. RICHARDSON
DANIEL J. RIESNER
LEOPOLD K. SIMON
LESTER D. STICKLES
PAULINE BILLINGS TAYLOR
THEODORE F. TONKONOGY
SIDNEY C. WINTON
JAMES R. WITHROW, JR.

May 22, 1946

APPENDIX

AN ACT *to amend the workmen's compensation law in relation to remedies of employees*

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section eleven of the Workmen's Compensation Law, as last amended by chapter six hundred fifteen of the laws of nineteen hundred twenty-two is hereby amended to read as follows*:

Section 11. *(a)* The liability of an employer prescribed by the last preceding section shall be exclusive and in place of any other liability whatsoever, to such employee, his personal representatives, husband, parents, dependents or next of kin, or anyone otherwise entitled to recover damages, at common law or otherwise on account of such injury or death, except *as provided in subdivisions (b) and (c) of this section.*

(b)† If an employer fail to secure the payment of compensation for his injured employees and their dependents as provided in section fifty of this chapter, an injured employee, or his legal representative in case death results from the injury, may, at his option, elect to claim compensation under this chapter, or to maintain an action in the courts for damages on account of such injury; and in such an action it shall not be necessary to plead or prove freedom from contributory

* Words and matter in italics new; words and matter in brackets omitted.

† In Section 11 as it stands prior to the proposed amendment, the matter contained in subsection (b) is part of the preceding sentence.

negligence nor may the defendant plead as a defense that the injury was caused by the negligence of a fellow servant nor that the employee assumed the risk of his employment, nor that the injury was due to the contributory negligence of the employee.

(c) An employee injured by the wilful or malicious wrong of his employer, or the legal representative of such employee in case death results from the injury, may pursue his remedy at common law against such employer in addition to any remedies he may have under this chapter.

•

SECTION 2. Subdivisions one, two, four and six of section 29 of said chapter, as last amended by chapter one hundred forty-four of the laws of nineteen hundred forty-seven, are hereby amended, and a new section, to be Section seven, is hereby inserted, to read as follows:

Section 29. 1. If an employee entitled to compensation under this chapter be injured or killed by the negligence or wrong of another not in the same employ, *or by the wilful or malicious wrong of his employer or another in the same employ,* such injured employee, or in case of death, his dependents, need not elect whether to take compensation and medical benefits under this chapter or to pursue his remedy against such [other] *wrongdoer,* but may take such compensation and medical benefits and at any time either prior thereto or within six months after the awarding of compensation or within nine months after the enactment of a law or laws creating, establishing or affording a new or additional remedy or remedies, pursue his remedy against such [other] *wrongdoer* subject to the provisions of this chapter. If such injured employee, or in case of death, his dependents, take or intend to take compensation, and medical benefits in the case of an employee, under this chapter and desire to bring action against such [other] *wrongdoer,* such action must be commenced not later than six months after the awarding of compensation or not later than nine months after the enactment of such law or laws creating, establishing or affording a new or additional remedy or remedies, and in any event before the expiration of one year from the date such action accrues. In such case, the state insurance fund, if compensation be payable therefrom, and otherwise the person, association, corporation or insurance carrier liable for the payment of such compensation, as the case may be, shall have a lien on the proceeds of any recovery from such [other] *wrongdoer,* whether by judgment, settlement or otherwise, after the deduction of the reasonable and necessary expenditures, including attorney's fees, incurred in effecting such recovery, to the extent of the total amount of compensation awarded under or provided or estimated by this chapter for such case and the expenses for medical treatment paid or to be paid by it and to such extent such recovery shall be deemed for the

benefit of such fund, person, association, corporation or carrier. Notice of the commencement of such action shall be given within thirty days thereafter to the chairman, the employer and the insurance carrier upon a form prescribed by the chairman.

2. If such injured employee, or in case of death, his dependents, has taken compensation under this chapter but has failed to commence action against such [other] *wrongdoer* within the time limited therefor by subdivision one, such failure shall operate as an assignment of the cause of action against such [other] *wrongdoer* to the state for the benefit of the state insurance fund, if compensation be payable therefrom, and otherwise to the person, association, corporation, or insurance carrier liable for the payment of such compensation. If such fund, person, association, corporation or carrier, as such an assignee, recover from such [other] *wrongdoer,* either by judgment, settlement or otherwise, a sum in excess of the total amount of compensation awarded to such injured employee or his dependents and the expenses for medical treatment paid by it, together with the reasonable and necessary expenditures incurred in effecting such recovery, it shall forthwith pay to such injured employee or his dependents, as the case may be, two-thirds of such excess, and to the extent of two-thirds of any such excess such recovery shall be deemed for the benefit of such employee or his dependents. When the compensation awarded requires periodical payments the number of which cannot be determined at the time of such award, the Board shall, when the injury or death was caused by the negligence or wrong of another not in the same employ, *or the wilful or malicious wrong of his employer or another in the same employ,* estimate the probable total amount thereof upon the basis of the survivorship annuitants table of mortality, the remarriage tables of the Dutch Royal Insurance Institution and such facts as it may deem pertinent, and such estimate shall be deemed the amount of the compensation awarded in such case, for the purpose of computing the amount of such excess recovery, subject to the modification thereof as hereinafter provided.

4. If such injured employee, or in case of death, his dependents, proceed against such [other] *wrongdoer,* the state insurance fund, person, association, corporation, or insurance carrier, as the case may be, shall contribute only the deficiency, if any, between the amount of the recovery against such [other person] *wrongdoer* actually collected, and the compensation provided or estimated by this chapter for such case.

6. The right to compensation or benefits under this chapter, shall be the exclusive remedy to an employee, or in case of death his dependents, when such employee is injured or killed by the negligence or wrong of another in the same employ [.], *except that an employee injured by the wilful or malicious wrong of another in the*

same employ, or the legal representative of the injured employee in case death results from the injury, may pursue his remedy at common law against such other employee in addition to any remedies he may have under this chapter.

7. For the purposes of this section, "wrongdoer" shall mean only (a) another not in the same employ as the injured employee, and not the employer, who by his negligence or wrong injures or kills such employee; and (b) an employer or another employee in the same employ as the injured employee, who by his wilful or malicious wrong injures or kills such employee.

Section 3. This act shall take effect immediately.

COMMITTEE ON THE MUNICIPAL COURT OF THE CITY OF NEW YORK

REPORT ON CANDIDATES FOR JUSTICES OF THE MUNICIPAL COURT

The Justices of the Municipal Court to be elected this year are fifteen in number. Of the fifteen whose terms will expire this year, all but one were eligible for reelection. This Association, at its meeting in May, approved the report of your Committee that as to each of said eligible Justices he was well qualified for judicial office and merited renomination by all political parties. Thirteen of the Justices were renominated and it is heartening to report that of this number seven were renominated by two or more of the principal political parties and are unopposed, as follows:

District	*Name of Candidate*	*Nominated by:*
1st – Manhattan	Michael R. Matteo	Rep. Dem. A-L Lib.
2nd– "	Joseph L. Raimo	Rep. Dem. A-L Lib.
5th – "	Abram Goodman	Rep. Dem. A-L Lib.
7th – "	Charles Marks	Rep. Dem. A-L Lib.
8th – "	Mario G. DiPirro	Rep. Dem. A-L
9th – "	George L. Genung	Rep. Dem. A-L
3rd –Queens	Edward J. Smith	Rep. Dem.

Mr. Thomas C. Chimera, a candidate for the second vacancy in the 1st District, New York County, was also nominated by all parties. Your Committee is of the opinion that Mr. Chimera is well qualified for the judicial office he seeks.

Justice Joseph B. Rafferty, 3rd District Manhattan, Justice Thomas E. Morrisey, Jr., 3rd District Kings, and Justice Edward Cassin, 6th District Kings, have been renominated by the Republican, Democratic and Liberal

Parties. Each of these Justices in the opinion of your Committee is well qualified and is endorsed and preferred.

In the 2nd District Bronx, Justice James W. Donoghue has been renominated by the Democratic Party. In the opinion of your Committee Justice Donoghue is well qualified and is endorsed and preferred.

In the 7th District Kings, Justice Harry P. Eppig has been renominated by the Democratic and Liberal Parties. In the opinion of your Committee Justice Eppig is well qualified and is endorsed and preferred.

In the 3rd District New York County, Irving Stroll, Esq. has been nominated by the American Labor Party and is opposing Justice Joseph B. Rafferty, heretofore referred to. In the opinion of your Committee Mr. Stroll is qualified.

In the 4th District, Manhattan, six candidates are seeking the two vacancies. As to these candidates your Committee reports as follows:

Francis Dean—Republican—well qualified and endorsed.
William S. Shea—Republican—qualified.
Vincent DePaul Gannon—Democratic—Liberal—well qualified and endorsed.
Cornelius D. McNamara—Democratic—Liberal—well qualified and endorsed.
Mendel Lurie—A-L—well qualified and endorsed.
Moses Weinman—A-L—qualified.

In the 2nd District Bronx, there are three candidates in addition to Justice Donoghue heretofore referred to. Your Committee reports as to these candidates as follows:

Solon S. Kane—Republican—Qualified
Samuel Natapoff—A-L—Qualified
Samuel London—Lib.—Qualified

In the 3rd District Kings, Hyman Heimowitz, Esq. has been nominated by the American Labor Party and is opposing Justice Thomas E. Morrisey, Jr., heretofore referred to. Mr. Heimowitz did not appear before your Committee and your Committee does not feel that it has sufficient information to express an opinion of his qualifications.

In the 6th District Kings, Jacob Schneider, Esq. has been nominated by the American-Labor Party and is opposing Justice Edward Cassin, heretofore referred to. In the opinion of your Committee Mr. Schneider is qualified.

In the 7th District Kings, Salvatore T. Abruzzo, Esq. has been nominated by the Republican Party, and Ira M. Greene, Esq. by the American-Labor Party. They are opposing Justice Harry P. Eppig, heretofore referred to. Neither Mr. Abruzzo nor Mr. Greene was able to appear before the Committee, Mr. Abruzzo because of illness and Mr. Greene because he was engaged in the Court of Appeals in a proceeding to have his name replace that of Mr. Abruzzo on the Republican ticket. Your Committee does not feel

that it has sufficient information to express an opinion as to the qualifications of either Mr. Abruzzo or Mr. Greene.

Respectfully submitted,

EDGAR M. SOUZA, *Chairman*

JOHN M. A. BLAIR
JOSEPH H. CHOATE, 3RD
ALLEN EVARTS FOSTER
JOSEPH W. LANDES
LESLIE LESTER
JAMES J. McGOWAN
BENJAMIN POLLACK
MILTON POLLACK
CHARLES S. PORT
J. HOWARD ROSSBACH
GEORGE J. SCHAEFER
WILLIAM SELNICK
SAUL A. SHAMES
BERNARD TRENCHER
STUART N. UPDIKE

October 21, 1947

The Library

SIDNEY B. HILL, *Librarian*

RECENT WORKS ON AVIATION LAW

"And lastly, the earth hath in law a great extent upwards, not only of water, as hath been said, but of ayre and all other things up to heaven; for Cujus est solum, ejus est usque ad coelum." (Co. Litt. 4a.)

The law of aeronautics has well advanced since the enunciation of this dictum, particularly within the last quarter of a century. It has been said that "At great heights the air escapes from all authority," but today we know this not to be true.

Concurrently with the advances in the field of aviation, the library has assembled a well rounded out collection on the law pertaining to aeronautics, including complete sets of aviation reports, periodicals and the full proceedings of international conferences, all documents relating to the codification of both public and private international laws of the air.

In addition to the materials found, as above mentioned, the attention of the members is especially invited to the wealth of material to be found in the various periodicals. By referring to the Index to Legal Periodicals, they have an easily accessible guide to the latest thought on this subject.

Air Affairs; An International Quarterly Journal. Washington, Air Affairs, Inc. 1946.

Air Carriers' Liability in Comparative Law: Europe and the United States by Arnold W. Knaught; Latin America by David E. Grant. New York Univ. School of Law. Contemporary Law Pamphlets, Series 1, No. 3. New York Univ. Law Quar. 1937. 50p.

Air Commerce Act, 1926. Civil aeronautics; legislative history of the Air Commerce Act of 1926 approved May 20, 1926, together with miscellaneous legal materials relating to civil air navigation. Revision of the 1923 edition of law memorandum upon civil aeronautics. Corrected to August 1, 1926. Washington, Govt. print. off. 1943. 178p.

Air Law Review. New York, The American Academy of Air Law and the American Section of the International Committee on Radio, 1930–1941. 12 vols.

*Air Transport Association of America. Digest of State Aeronautical Laws. Washington, Air Transport Association of America. 1946. Loose-leaf.

American Bar Association. Reports of the Committee on Aeronautical Law.

Association of the Bar of the City of New York. Reports of the Committee on Aeronautics.

Aviation Cases. Vol. I—The full texts of all court decisions in cases involving aviation law, with general case table, jurisdictional case table and topical index. New York, Commerce Clearing House, Inc. 1947.

Aviation Law Looks to the Future. A Symposium. 1945. 31 Va. L. Rev. 265–531.

Aviation Transport. Durham, Duke University School of Law. 1946. 11 Law and Contemporary Problems. 429–630.

Brown, Harold Lincoln. Aircraft and the Law; a survey of the rights, duties and liabilities of all persons concerned with aircraft operation, and the interest of the general public in connection therewith. New York, Robert O. Ballou. 1933. 359p.

Brunschwik, Lisa. La Responsabilité Envers Les Tiers Dans La Navigation Aérienne: Dommages a la surface. Paris, Les Éditions Internationales. 1935. 260p.

Commerce Clearing House. Aviation Law Reporter; laws, regulations, court and board decisions relating to regulation of aviation. International Aviation Law. Chicago, Commerce Clearing House, Inc. 1947. 2 vols. Loose-leaf.

Coquoz, R. Le Droit Prive International Aérien. Paris. 1938.

Cosentini, Francesco. International Code of Aviation. New York, Foreign and International Book Co., Inc. 1933. 200p.

*Davis, F. J. Aeronautical Law. Los Angeles. 1930.

Dykstra, Gerald Oscar and Lillian Green. Business Law of Aviation. New York, McGraw-Hill Book Co., Inc. 1946. 523p.

Ewing, Hampton Denman. Problems of Aeronautical Law; the second of the 1933–1934 series of lectures under the auspices of the Association of the Bar of the City of New York, at the House of the Association, April 5, 1934. 33p.

* Not in the library.

Ewing, Hampton Denman. Ground Rule of Torts by Aircraft, at the American Law Institute. Worcester, Heffernan Press. 1934. 10p.

Fixel, Rowland Wells. Law of Aviation. Second Edition. Charlottesville, Michie Co. 1945. 396p.

Federal Bar Association of New York, New Jersey and Connecticut. Committee on Aeronautical Law. Aeronautical Law Symposium. New York, Aeronautical Digest Publishing Co. 1938. 32p.

Freeman, William Marshall. Air and Aviation Law being an exposition of the statute and case law affecting air navigation. Toronto, Sir Isaac Pitman & Sons, Ltd. and Carswell Co., Ltd. 1931. 163p.

*Gilbert, Glen Alexander. Air Traffic Control. New York, The Ziff-Davis Publishing Co. 1945. 274p.

Goedhuis, Daniel. Air Law in the Making. The Hague, Martinus Nijhoff. 1938. 36p.

Goedhuis, Daniel. National Airlegislations and the Warsaw Convention. The Hague, Martinus Nijhoff. 1937. 348p.

Goodman, Gilbert. Government Policy Toward Commercial Aviation; Competition and the Regulation of Rates. New York, Columbia University Press. 1944. 122p.

Hartman, Dennis. Aviation Law Digest; including the decisions of all federal and state courts. Los Angeles. Dennis Hartman. 1941. 219p.

Hazeltine, Harold Dexter.The Law of the Air; three lectures delivered in the University of London. London, University of London Press. 1911. 152p.

Henry-Coüannier, André. Éléments créateurs du droit aérien. Paris. 1929. 343p.

Hotchkiss, Henry G. A Treatise on Aviation Law. Second Edition. New York, Baker, Voorhis & Co. 1938. 588p.

Inter-American Bar Association. Suggestions for the Preparation of an International Code in Aviation. Submitted by Madeline C. Dinu of the State Bar of Michigan to the Fifth Conference of the Inter-American Bar Association. Lima, Peru, November 26–December 8, 1947. Mimeographed. 13p.

International Civil Aviation Conference, Chicago, Illinois, November 1–December 7, 1944. Convention on international civil aviation; Senate committee hearings on Executive A, February 20–March 26, 1945. Washington, Govt. print. off. 1945. 314p.

* Not in the library.

International Civil Aviation Conference, Chicago, Illinois, November 1–December 7, 1944. Final act and related documents. Washington, Govt. print. off. 1945. 284p.

International Commission for Air Navigation. International convention relating to the regulation of aerial navigation, dated October 13, 1919. Washington, Govt. print. off. 1944. 148p.

International Conference on Private Law Affecting Air Questions, 4th, Brussels, 1938; report of the American delegation to the Secretary of State. United States Department of State, Conference Series No. 42. Washington. 1939. 95p.

The Journal of Air Law and Commerce. Chicago, Northwestern University School of Law and School of Commerce. 1930–1942; 1947–.

Knauth, Arnold W. Aviation Law. Annual Survey of American Law, 1942. p. 592–601; 1943. p. 552–555; 1944. p. 755–766; 1945. 871–892.

Knauth, Arnold W. Aviation Salvage at Sea Convention of 1938. New York, New York University School of Law. Contemporary Law Pamphlets. Series 1, No. 18.

Le Goff, Marcel. Traite Theorique et Pratique de Droit Aérien. Paris, Librairie Dalloz. 1934. 899p.

Lissitzyn, Oliver James. International Air Transport and National Policy. New York, Council on Foreign Relations, Inc. 1942. 478p.

Lupton, George William, Jr. Civil Aviation Law. Chicago, Callaghan & Co., Inc. 1935. 347p.

McNair, Arnold Duncan. Law of the Air. London, Butterworth & Co., Ltd. Toronto, Carswell Co., Ltd. 1932. 249p.

Moller, Nils Henry. The Law of Civil Aviation. Toronto, Carswell Co., Ltd. 1936. 550p.

Moore, John Bassett. International Law and Some Current Illusions. New York, The Macmillan Co. 1924. 381p.

New York State Bar Association. Reports of the Committee on Aeronautical Law.

Nokes, Gerald Dacre and Bridges, H. P. Law of Aviation. Toronto, Carswell Co., Ltd. 1930. 220p.

Revue Aeronautique Internationale. Liege. 1931–1938. 8 vols.

Revue Générale de Droit Aérien. Paris, Les Éditions Internationale. 1932–1939.

Revue Générale de L'Air. Paris, Les Éditions Internationale. 1947.

Rhyne, Charles S. Airports and the Courts. Washington, National Institute of Municipal Law Officers. 1944. 222p.

Rhyne, Charles S. Aviation Accident Law. Washington, Columbia Law Book Co. 1947.

Rhyne, Charles S. The Civil Aeronautics Act Annotated, with the congressional history which produced it and the precedents upon which it is based. New York, National Law Book Co., Inc. 1939. 324p.

Rivista di Diritto Aeronautico. Rome, Editoriale Aeronautica. 1932–1938.

*Savoia, Cesare. La responsabilità civile del vittore aero. Rome. 1928. 293p.

Shawcross, Christopher Nyholm and Beaumont, K. M. Air Law. London, Butterworth & Co., Ltd. 1945. 815p.

Slotemaker, L. H. Freedom of Passage for International Air Services. New York, Van Riemsdyck Book Service. 1932. 119p.

Spaight, James Molony. Third Party Damage by Aircraft; British Legislation and the Rome Convention. New York University School of Law. Contemporary Law Pamphlets, Series 1, No. 22. N. Y. Univ. Law Quar. 1939. 28p.

Sunnucks, Reginald. Air Rule of the Road, and Air Legislation. Glasgow, Brown, Son and Ferguson, Ltd. 1937. 79p.

Tissot, Jean. De la responsabilité en matière de navigation aérienne. Paris. 1925.

Tombs, Laurence Chalmers. International Organization in European Air Transport. New York, Columbia Univ. Press. 1936. 219p.

Uniform Laws Annotated. Aeronautics. Vol. 11. Brooklyn, Edward Thompson Co. 1938. To be kept up to date by cumulative annual pocket parts.

United States Aviation Reports. Baltimore, United States Aviation Reports, Inc. 1928–1947. 20 vols.

United States Senate. Committee on Commerce. Civil Aviation Agreements. Hearings on S. 1814, Feb. 15–April 10, 1946. Seventy-ninth Congress. Second Session. Washington, Govt. print. off. 1946. 341p.

United States Senate. Committee on Commerce. International Commercial Aviation. Document No. 173; Resolution with an accompanying report, relative to the so-called Bermuda Agreement between the United States and the United Kingdom, regarding international commercial aviation, April 19, 1946. Washington, Govt. print. off. 1946. 12p.

* Not in the library.

United States Senate. Committee on Foreign Relations. Convention on International Civil Aviation. Report to accompany Executive A, Seventy-ninth Congress. First Session. Washington, Govt. print. off. 1946. 8p.

United States Senate. Committee on Interstate Commerce. To Establish a National Air Policy Board. Hearings before subcommittee on S. 1639, May 21–June 6, 1946. Seventy-ninth Congress. Second Session. Washington, Govt. print. off. 1946. 273p.

United States Senate. National Air Policy Board. Senate Report No. 1909 to accompany S. 1639, July 31, 1946. Washington, Govt. print. off. 1946. 6p.

United States Senate. Public Policy in Postwar Aviation. Document No. 56. Report on Public Policy in Postwar Aviation by Halford G. Davis. June 19,1945. Washington, Govt. print. off. 1945. 56p.

Van Houtte, Jean. La Responsabilité Civile dans les Transports Aériens, Intérieurs et Internationaux. Paris, Librairie Générale de Droit et Jurisprudence. 1940. 224p.

Van Zandt, John Parker. Civil Aviation and Peace. Washington, Brookings Institution. 1944. 157p.

Waterman, Patricia L. Roles of the States in Postwar Aviation. Berkeley, University of California, Bureau of Public Administration. 1945. 58p.

Wingfield, Lawrence Arthur and Sparkes, R. B. Law in Relation to Aircraft. New York, Longmans, Green & Co. 1928. 304p.

Zollmann, Carl Frederick Gustav. Law of the Air. Milwaukee, The Bruce Publishing Co. 1927. 286p.

DEATHS REPORTED SINCE APRIL 15, 1947

Elected		*Died*
1900	Percival C. Smith	Before October 1946
1926	George B. Thatcher	October 15, 1946
1942	Alexander B. Andrews	October 21, 1946
1924	Alvin Waldo Hyde	October 25, 1946
1945	Karl Pohl	January 21, 1947
1926	Charles A. MacDonald	January 25, 1947
1940	H. Allen Barton	February 5, 1947
1934	Ralph Alexander McClelland	March 4, 1947
1906	Stephen P. Anderton	March 8, 1947
1944	Laurence W. Aldrich	April 22, 1947
1919	Howard L. Kern	May 12, 1947
1888	Henry de Forest Baldwin	May 18, 1947
1910	George J. Thomson	May 18, 1947
1910	William Lloyd Kitchel	June 1, 1947
1918	Francis Martin	June 1, 1947
1921	Oscar Dibble Duncan	June 12, 1947
1919	Earle Farwell	June 18, 1947
1890	Herbert Barry	June 19, 1947
1919	Joseph J. Corn	July 3, 1947
1922	Edwin Henry Cassels	July 9, 1947
1896	Herbert L. Satterlee	July 14, 1947
1928	Thomas Blaine Kattell	July 21, 1947
1898	Louis B. Hasbrouck	August 15, 1947
1910	Lewis Roberts Conklin	September 16, 1947
1907	Branch P. Kerfoot	September 23, 1947
1917	John Thomas Smith	September 28, 1947
1898	Quincy Ward Boesé	September 29, 1947
1927	Anton F. Von Bernuth	September 30, 1947
1921	David F. Goodnow	October 7, 1947
1890	Abraham I. Elkus	October 15, 1947
1925	William J. Amend	October 19, 1947
1890	John Jay McKelvey	October 19, 1947
1908	George Simpson Eddy	October 20, 1947